



Washington State
Department of Health
Podiatric Medical Board
Meeting Minutes
November 9, 2006

The meeting of the Washington State Podiatric Medical Board was called to order by David Bernstein, DPM, Chair, at 9:10 a.m. The meeting was held at the Clarion Hotel, 3000 176th Street, SeaTac, Washington 98188.

Board Members

Participating:

David Bernstein, DPM, Chair
Stewart Brim, DPM, Vice Chair
James Porter, DPM
Rex Nilson, DPM
Amy Wong, Public Member

Staff Participating:

Blake Maresh, Executive Director
Arlene Robertson, Program Manager
Dori Jaffe, Assistant Attorney General
Peter Harris, Staff Attorney
Joe Mihelich, Administrative Staff

Guests:

Laurie Jenkins, Assistant Secretary
Patti Latsch, Deputy Director
Tami Thompson, Policy Office
LaVonda McCandless and Jamie Mai, Labor
& Industries

Public Attendees:

Susan Scanlan, Executive Director,
Washington State Podiatric Medical
Association
Gail McGaffick, Lobbyist, Washington
State Podiatric Medical Association
Melissa Johnson, Lobbyist, Physical
Therapy Association of Washington.

OPEN SESSION

1. Call to Order
 - 1.1 Approval of Agenda
The agenda was approved as published.
 - 1.2 Approval of Minutes - September 7, 2006
The minutes of the September 7, 2006 meeting were reviewed and approved as submitted.
 - 1.3 Approval of Conference Call Minutes - June 15, 2006
The June 15, 2006 conference call minutes were approved.
 - 1.4 Approval of Conference Call Minutes - October 19, 2006
The October 19, 2006 conference call minutes were approved.
2. Old Business
 - 2.1 Selling Goods for Profit
 - 2.1.1 Supreme Court Case No. 78635-6
Review applicability to podiatric practice.
ISSUE
The Washington State Podiatric Medical Association, had recently asked the Board to provide input on the Association's proposal to ask the Legislature to clarify the existing rebating law. The rebating law is unclear on practitioners selling medical products for profit. In one section it appears to be prohibited and in another it is permitted under some circumstances with practitioner disclosure of their financial interest in the business providing the service or product.

ACTION
The Supreme Court decision ruled on whether RCW 19.68.010 is an "antikickback" statute or an antiprofit statute. The Supreme Court indicated that RCW 19.68.010 and .020 prohibits profits earned from referring patients, not profits from treating patients or providing goods or services. The Courts' ruling appears to resolve the question related to profiting from products provided directly to patients by medical professionals.

2.2 Physical Therapy Sharp Debridement Education and Training Rule - Report by Blake Maresh, Executive Director

Discuss the process used to consider public comments on the rule content.

2.2.1 Concise Explanatory Statement for WAC 246-915-360 and WAC 246-915-370

2.2.2 RCW 18.74.010 Definitions - Enabling statute

2.2.3 WAC 246-915-360 Sharp Debridement Education and Training

ISSUE

The Podiatric Medical Board had requested a debriefing on the concise explanatory statement by the Physical Therapy Board to approve the sharp debridement rule. Mr. Maresh reviewed the purpose of the concise explanatory statement provided by the Physical Therapy Board in response to comments made by the interested parties relative to the proposed rules. Ms. Jaffe noted rules could be challenged if the process was not followed, the rules are outside the Legislative intent, or outside the boundaries of authority of the adopting entity.

Dr. Scanlan, Ms. McGaffick and Ms. Johnson were able to provide background information on the discussions held during the rules workshops. They also provided additional insight regarding physical therapy education relative to debridement.

ACTION

The Physical Therapy Board appeared to have met all of the criteria required for adopting the rule. No further action was needed.

3. 3. Rules

3.1 Rules being filed with the Code Reviser for January 18, 2007 hearing

3.1.1 Sexual Misconduct and Abuse

3.1.2 Pain Management rules

Ms. Robertson reported that these rules were scheduled for hearing in January.

3.2 Other rules in Progress - Status

3.2.1 Scope of Practice - Internal DOH rule review of CR102 rule package
Identifies who may administer anesthesia to podiatric patients

Ms. Robertson indicated it is anticipated this rule will be filed in time for hearing in January also.

3.2.2 Orthotic definitions - Preparing CR101 paperwork for review by policy staff.

Ms. Robertson and Mr. Maresh have been drafting language for the CR101. Since the subject matter is complicated and impacts several other professions these rules are anticipated to be controversial. The description of the subject areas and issues being addressed will determine the scope of the rules language. Staff anticipates to have the CR101 for rules to the policy office by mid-December to begin the internal review process.

3.3 Retired Volunteer Medical Worker License - Opportunity provide feedback on the rules language

3.3.1 ESHB 1850

3.3.2 CR101

3.3.3 Draft language and supporting documents presented at the workshops

ISSUE

Information relative to the Retired Volunteer Medical Worker License law and proposed rules were provided for review.

ACTION

The Board commented on the part of the rules that indicates that, "A licensed retired volunteer medical worker may not be actively practicing in another profession." It was unclear why this statement was put in the proposed rules.

Other questions pertained the length of time it was going to take to implement the rules and whether DOH is going to have a list of practitioners with this license readily available to the public. The Board is interested in reviewing future drafts of the rules.

4. Disciplinary Issues

4.1 Disciplinary Guidelines

Review draft guidelines with Board processes. Consider whether to use them on a trial basis.

4.1.1 Disciplinary Guidelines Manual (DRAFT)

4.1.1.1 Sanctions Worksheet (DRAFT)

4.1.1.2 Case Disposition Worksheet (DRAFT)

4.1.1.3 Reviewing Board Member Worksheet
(REVISED-DRAFT)

ISSUE

The Board reviewed a draft Disciplinary Guidelines Manual. The draft incorporates the elements of the Department of Health Disciplinary Guidelines and the Board's procedures. The Board members will be able to refer to the manual as well as the Reviewing Board Member Worksheet when conducting case reviews. At the time of board review and case disposition, the Case Disposition Worksheet and if applicable, the Sanctions Worksheet would be completed.

ACTION

The Disciplinary Guidelines Manual was approved with one correction.

The Board approved using the sanction guidelines for a trial period of one year.

5. Licensing Issues

5.1 Continuing Education - Discuss including Internet courses as meeting the CE requirements.

5.1.1 CE Audits/approved and non-approved courses/
Action taken for non-compliance policy with
proposed modifications.

5.1.2 Internet CE permitted by other professions in
Washington and other state podiatry boards

ISSUE

The issue of whether to accept continuing education credit for taking Internet courses to meet the continuing education requirements for licensure was discussed. The Board reviewed its policy on approved and non-approved courses. The Board was provided with information for other Washington professions as well as other state podiatric boards that accept Internet continuing education courses.

ACTION

The Board discussed the merits of personally attending continuing education courses. The Board indicated there is professional merit to interacting with other colleagues and supporting the state association's courses to maintain local availability of courses. The Board already recognizes several ways for licensees to obtain a portion of their continuing education without attending courses in person. For example, video and audio programs which provide a self-assessment mechanism may currently provide 10 hours of the total 50 required. Prior to making a final decision, the Board wants additional information on whether other national

medical organizations, such as the American Medical Association and the American Osteopathic Association, are accepting Internet courses. The matter was tabled to the next meeting until the additional information could be obtained.

6. Program Manager Reports

6.1 Budget Report

Ms. Robertson reported the budget expenditures remained close to the allocations. The budget balance was being maintained at an adequate amount. However, any increase in the disciplinary activities could impact the budget significantly. As the end of the biennium nears, staff will be monitoring the budget very closely so it does not exceed the allotment.

6.2 Washington Physicians Health Program

September 2006 Statistical Information

The statistical report was provided for information only.

7. Executive Director Reports

7.1 Operating Agreement Between the Department of Health and the Podiatric Medical Board

ISSUE

Mr. Maresh provided the background of the Operating Agreement with the Department of Health. The Board is asked to review the Operating Agreement periodically, usually each biennium, to affirm that the provisions are still applicable.

ACTION

The Board approved renewal of the Operating Agreement without any recommended changes or additions.

7.2 Department/Division Updates

Mr. Maresh reported that the Department of Health was preparing for a performance audit which had been requested by the Governor.

Staff continues to work on Human Resource issues relative to filling some of the vacant positions in the section. Mr. Maresh reported that the ILRS computer project continues to move forward and is keeping on schedule.

8. Settlement Presentations

(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)

There were no proposed settlements for presentation.

CLOSED SESSION

9. Investigative Authorizations

Two reports were authorized for investigation.

The following complaint was closed below threshold:

2006-10-0004PO.

10. Disciplinary Case Reviews - Reviewing Board Member Reports

CASE NUMBER

CASE DISPOSITION

2003-05-0003PO	Closed below threshold after investigation.
2006-02-0003PO	Closed no cause for action; evidence does not support a violation.
2006-02-0001PO	Closed no cause for action; evidence does not support a violation.
2006-02-0004PO	Closed no cause for action; evidence does not support a violation.
2006-02-0006PO	Closed no cause for action; evidence does not support a violation.
2006-03-0002PO	Closed no cause for action; risk minimal and not likely to reoccur.
2006-03-0001PO	Closed no cause for action; care rendered was within the standard of care.
2006-03-0005PO	Closed no cause for action; no violation determined, care rendered was within the standard of care.
2006-06-0001PO	Closed no cause for action; unable to pursue without whistleblower release.

11. Stipulation to Informal Disposition Presentations

(Presentations are contingent upon agreements being reached between the parties prior to a board meeting.)

There were no Informal Dispositions for consideration.

12. Compliance Reports

The Board reviewed a report on the status of compliance cases.

13. Open case report

A report of open cases was provided for information only.

No action was required.

14. Application Review

There were no applications for review.

The meeting adjourned at 2:50 p.m.

Respectfully Submitted

Arlene A. Robertson
Program Manager

NOTE: PLEASE VISIT THE PODIATRIC MEDICAL BOARD'S WEB SITE FOR FUTURE AGENDAS AND MINUTES. WWW.DOH.WA.GOV , GO TO LICENSING AND CERTIFICATION AND YOU WILL FIND A LIST OF THE HEALTH PROFESSIONS, GO TO PODIATRIC PHYSICIANS FOR AGENDAS AND MINUTES.
--

